

REMARKS

The above patent application has been amended and reconsideration and reexamination are requested.

The Examiner rejected Claims 1-23 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically, an abstract idea.

Claim 1 and claim 11 have been amended to call for a memory storing a data structure that represents a financial product ***. Since the claims recite a memory, an article of manufacture, the claims recite statutory subject matter.

Claims 16-18 have been amended to recite a computer-based method of producing a financial product *** and as appropriate calculating in the computer ***. As amended, these claims and their dependent claims recite statutory subject matter.

Newly added claim 24 and its dependent claims recite statutory subject matter by calling for a computer-based method of producing a financial product *** calculating in the computer ***.

The Examiner rejected Claims 1-8 and 10-23 under 35 U.S.C. 102(e) as being anticipated by Olienyk et al., Journal of Financial Planning.

Claim 1 is distinct over Olienyk. The reference neither describes nor suggests *** a field that identifies a first fund that is traded on a trading marketplace in a first country, and registered in the first country, a field that identifies an index of securities that are traded in a second, different country, which the first fund is based on and being arbitragable with a second fund that is based on the index and which is registered in the second different country. Claim 1 further distinguishes over Olienyk by requiring the first fund to have a creation unit basis that is substantially the same basis as a creation unit basis for the second fund.

The examiner takes the position that Olienyk teaches features. The examiner relies upon page 4 of Olienyk. The examiner in the office action on page 4 states:

(page 4, see "World Equity Benchmark Shares"; WEBS is being based on Morgan Stanley Capital International (MSCI) stock market index, WEBS are open-end index funds, their shares like closed-end country funds, are traded in the secondary market, i.e.,

traded on American Stock Exchange, e.g., the first fund is Mexican
WEBS is being arbitragable with a second fund, e.g., Canadian
WEBS based on the MSCI index; Mexican and Canadian WEBS
have the same creation unit basis.

Neither WEBS, the description of WEBS in Olienyk nor the examiner's reasoning describes the elements of claim 1. Claim 1 is directed to a financial product, represented as a data structure including a field that identifies a first fund that is *** registered in the first country and a field that identifies an index of securities that are traded in a second, different country, which the first fund is based on. Claim 1 also requires that the first fund is arbitragable with a second fund that is based on the index and which is registered in the second different country. In addition, claim 1 requires that the first fund to have a creation unit basis that is substantially the same basis as a creation unit basis for the second fund.

Olienyk describes WEBS, as being modeled after SPDR's. Thus, WEBS have the concept of a creation unit basis. However, nowhere in Olienyk does Olienyk suggest that any two WEBS have the same creation unit basis. WEBS can trade on the American Stock Exchange and in secondary markets. However, this does not mean that WEBS is a financial product of a first fund that is registered in the first country and has the characteristics of a second fund based on the index and which is registered in the second different country. Olienyk does not suggest that any two WEBS are arbitragable.

The examiner considers that Olienyk teaches claim 1 by being, "open-end index funds, their shares like closed-end country funds, are traded in the secondary market." Again, that does not suggest a field that identifies a first fund that is traded on a trading marketplace in a first country, and registered in the first country and having the characteristics of a second fund based on the index and which is registered in the second different country.

Similarly, the examiner's reasoning that the first fund is Mexican WEBS is arbitragable with a second fund, e.g., Canadian WEBS based on the MSCI index and that Mexican and Canadian WEBS have the same creation unit basis is completely in error. Canadian and Mexican WEBS are based on different creation units, e.g., different indexes in the different countries. In general, these WEBS cannot be arbitragable with each other.

Claims 2-10 are allowable at least for the reasons discussed in claim 1. These claims also add additional distinct features. For instance, claim 4 requires that the first tracking fund and the second tracking fund each track the same index. Claim 7 requires that the first tracking fund shares are not fungible with second tracking fund shares at the share level. Claim 10 requires that there exists a known numerical relationship or ratio between the share aggregation size of a creation unit of the first tracking fund and the share aggregation size of a creation unit of the second tracking fund.

Claim 11 is distinct for the reasons discussed in claim 1 and further since calculation of the net asset value of the first fund occurs essentially or exactly the same time that second country fund has its Net Asset Value (NAV) calculated. Olienyk does not suggest this feature.

Claims 12-15 are allowable at least for the reasons discussed in Claim 11 and for the reasons discussed above for certain of the dependent claims of claim 1. Claim 13, which depends from claim 11, and recites that the first tracking fund and the second tracking fund each track the same index serves to distinguish over the reference.

Claim 16 recites a computer-based method of administering a financial. Claim 16 specifically recites administering *** a first fund having a creation unit basis that is substantially the same basis as the creation unit basis for a second fund that is traded on a second marketplace in a different country as the first fund. Olienyk does not show this feature. The examiner's reasoning that Mexican and Canadian WEBS have the same creation unit basis is completely in error. Canadian and Mexican WEBS are based on different creation units, e.g., different indexes in the different countries (See Olienyk Page 6). For instance, Olienyk describes:

The average correlations for the SPDR and each of the WEBS are presented on the third line of Table 2a. These values show how each country's **index** is related, on average to the other 17
(emphasis in original).

Claim 17 recites a computer-based method of administering a first fund. Claim 17 requires calculating in the computer, the net asset value of the first fund at essentially or exactly

the same time that the net asset value of a second country fund has its net asset value calculated, with the first fund and the second fund each tracking the same index of financial products.

Olienyk does not suggest this feature.

Claim 18 recites a computer-based method including providing the first fund based on a creation unit, the creation unit having a basis that is substantially the same basis as a creation unit basis for a second fund *** . Claim 18 also recites calculating in the computer the net asset value of the first fund at essentially or exactly the same time that the net asset value of the second country fund has its net asset value calculated to make the first fund arbitragable with the second fund. Olienyk neither describes nor suggests neither one of, nor the combination of these features. Claim 18 presents a new combination of the features of claims 16 and 17 are is allowable for those reasons.

Claims 19-23 are allowable with claim 18.

New claim 24 distinguishes over Olienyk, since Olienyk neither describes nor suggests calculating in the computer system the net asset value of the first fund at essentially or exactly the same time that the net asset value of a second fund. Claim 24 features that the first fund is arbitragable with the second fund. Claim 24 also features that the funds have substantially the same creation unit basis, whereas the second fund is traded on a second marketplace in a different country than the first fund.

Claims 25-30 are allowable at least for the reasons given in claim 24. Claim 31 further limits the first country and the second country as being in different time zones. Claim 32 limits trading in the shares of one fund using as a reference the prices or expected prices of the shares of the second fund. Neither of these features is suggested by the references.

The Examiner rejected Claim 9 under 35 U.S.C. 103(a) as being unpatentable over Olienyk et al., Journal of Financial Planning, in view of iShares, Inc., Business Wire, "iShares, Inc. Announces Results of Special Shareholders' Meetings."

Claim 9, which depends from claim 1, is distinguished over the combination of references at least because the base reference Olienyk does not suggest the features of claim 1.

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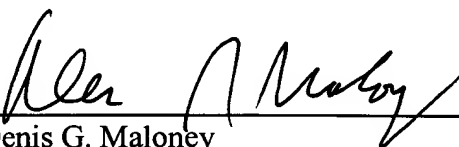
The art cited by not applied by the examiner is seen as neither describing nor suggesting the features of Applicant's claims.

Enclosed is a \$250 check for excess claim fees and a \$110 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date:

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